

CABINET

ITEM 18

AMENDED VERSION

WEDNESDAY 25 JULY 2012
7.00 PM

COUNCIL CHAMBER, CIVIC OFFICES
CENTRAL MILTON KEYNES

Wards Affected:

Wolverton

ITEM 18**CABINET****25 JULY 2012****UPDATE ON WOLVERTON NEIGHBOURHOOD PLAN AND CONSIDERATION OF COMPULSORY PURCHASE OF THE AGORA SITE**

Authors: Nick Fenwick, Assistant Director: Planning, Economy and Development,
Tel: (01908) 252492

Fiona Tarbit, Senior Planning Officer, Tel: (01908) 252318

Peter Smettem, Valuer to the Council, Tel: (01908) 252334

Mike Kelly, Principal Lawyer, Tel: (01908) 252225

Executive Summary:

A Neighbourhood Plan is being prepared in Wolverton, being led by a Steering Committee under Wolverton and Greenleys Town Council and Wolverton Steering Group. As part of the preparation process so far, there has been engagement with the community and key landowners in the area. Further consultation is planned shortly, to consider the options to be included in the draft Neighbourhood Plan.

A key element of the proposed plan is considering the future of the Agora Shopping Centre and how the site could be brought forward for redevelopment. This report details the proposal for the Council to consider the compulsory purchase of the Agora in a partnership with Wolverton and Greenleys Town Council, Wolverton Steering Group and a development partner, and the process that would take.

1. Recommendations

- 1.1 To welcome the work underway to develop a Neighbourhood Plan for Wolverton Town Centre and the intention to prepare a Development Brief for the Agora site.
- 1.2 To signal the willingness in principle to consider the compulsory acquisition of the Agora Shopping Centre, if redevelopment cannot be achieved on a voluntary basis. The Compulsory Purchase Order (CPO) would be on the basis of a back-to-back arrangement to ensure that the CPO would only be carried out if a Development Partner for the project could be found.

2. Wolverton Neighbourhood Plan

- 2.1 Wolverton was included as one of the Government's Neighbourhood Planning Frontrunner projects in May 2011. The successful bid to DCLG was led by Wolverton Steering Group, and a Neighbourhood Plan Steering Committee was set up to lead the day-to-day work on the project.

- 2.2 Following the introduction of the Neighbourhood Planning (General) Regulations 2012 and the Localism Act 2011, in a parished area like Wolverton, it can only be the Parish Council that can be the 'relevant body' for a Neighbourhood Plan. Because of this, Wolverton and Greenleys Town Council have now taken ownership of the Neighbourhood Plan and have submitted to Milton Keynes Council an application to designate an area of Wolverton Town Centre as a Neighbourhood Plan Area under Regulation 5 of the 2012 Regulations.
- 2.3 Consultation on this application ends today (25 July 2012), and will be determined in accordance with the scheme of delegation proposed in the relevant item of this Cabinet agenda.
- 2.4 The preparation of a Neighbourhood Plan follows a long history of work by both the community and MKC to help promote Wolverton as a thriving and sustainable town centre. This work included a Town Centre Health Check in 2002/03 which produced a vision for the future of the town. This Future Wolverton Vision was refreshed during 2010, and an action plan developed to help deliver its aims.
- 2.5 The Milton Keynes Local Plan (adopted 2005) supports the regeneration of Wolverton Town Centre, and identifies the town as a "District Centre". To support the Local Plan policies, a Wolverton Regeneration Strategy Supplementary Planning Document was also prepared. Later, it was decided to prepare a Wolverton Area Action Plan, but this was subsequently suspended in order to progress work on the Core Strategy.
- 2.6 The preparation of the Neighbourhood Plan is the opportunity to bring together the community aspirations for the town with the weight of a statutory planning document. As part of this process, there has already been significant community and stakeholder engagement, as shown in Table 1 below.
- 2.7 A Neighbourhood Plan is prepared by the community to reflect their own aspirations and needs. It is not the Local Planning Authority's plan (although, assuming the relevant regulations are met and the plan receives support at a local referendum, it would be adopted by the Council as part of the Development Plan); the Council's role is advisory only.

Table 1 – Community Engagement on the Neighbourhood Plan to date

<p>Leaflet, poster and exhibition campaign</p> <p>January – February 2012</p>	<p>To publicise the Neighbourhood Plan public meetings and ask for views on the main issues facing Wolverton Town Centre, leaflets were distributed to all homes and businesses in the parish, and posters displayed in various places in the town centre. In addition, information panels were displayed in the Town Hall/Library foyer for several weeks, asking people to return their completed leaflets.</p>
<p>Landowner Round-table meeting</p> <p>13 January 2012</p>	<p>Attended by key landowners, including Places for People, Tesco, St Modwen (owners of the railway land), Milton Keynes Council and agents for the Agora building. Facilitated by the Princes Foundation. Landowners were asked to explain their past and current involvement in the area and any plans for the future.</p>

Public Open Meeting 31 January 2012	Public meeting attended by over 150. Introduced the concept of a Neighbourhood Plan and the work to be done over the following days. Participants were also asked to contribute their views on some of the key issues affecting the town centre. Again, facilitated by the Princes Foundation.
Stakeholder day 1 February 2012	A full day workshop, attended by more than 40 key stakeholders, including landowners, residents, business owners, Town Councillors, Ward Members, MKC officers and representatives from various local community groups. Presentations from the Princes Foundation and MKC officers set the context for extensive group discussions on priorities and actions.
Public Open Meeting 2 February 2012	Following the workshop and using the other feedback from the first public meeting and responses to the leaflet, the Princes Foundation team, together with officers from the MKC Urban Design team prepared some proposals to address the various issues raised. These proposals were presented and discussed with the community at this second public meeting, attended again by more than 150 people.
E-newsletters and Future Wolverton website Ongoing	An e-newsletter is circulated regularly to a growing distribution list to maintain publicity about the Neighbourhood Plan and to provide updates as more information becomes available. This has included sign-posting to the Future Wolverton website (www.futurewolverton.co.uk) and the report from the Princes Foundation following the community workshops.

- 2.7 As discussed in Table 1, much of this early engagement work has been supported by the Princes Foundation. This follows a successful approach to the Princes Foundation in Autumn 2011 as one of the bodies appointed by DCLG to support Frontrunner Neighbourhood Plans. Their programme of support included the three-day community workshop set out in Table 1 and the subsequent production of a comprehensive report of the outputs of that work. The Princes Foundation has continued to be involved in the Neighbourhood Plan process, with a particular focus on development viability and the proposal for the compulsory purchase of the Agora site.
- 2.8 Community engagement on the options to be included in the Neighbourhood Plan is to be undertaken in July 2012. It is anticipated that the Neighbourhood Plan will include policies covering the principles for future redevelopment of the railway works site; proposals for creating a one-way route along Church Street and Radcliffe Street; sign-posting and other improvements to the public realm and legibility of routes around the town centre; and the redevelopment of the Agora shopping centre, including re-instating the historic alignment of Radcliffe Street. This report considers the potential to use the Council's compulsory purchase powers to bring forward the redevelopment of the Agora site.

3. Agora Shopping Centre

- 3.1 The Agora is a large indoor shopping centre, built in 1979 by the Milton Keynes Development Corporation as a 'gift' to Wolverton in an effort to revive the faltering Town Centre. The building was positioned in the geographical middle of the town, splitting Radcliffe Street in two, which has effectively separated the main commercial areas.
- 3.2 Rather than boosting the economy in Wolverton, it is generally agreed that it contributed to the decline of the Town Centre, and the Agora is now one of the most commonly cited 'problems' with the town's urban fabric. There is a strong call locally for the redevelopment of the site. At the public open meetings in January and February 2012 and through wider community engagement, this feeling has been firmly re-stated.
- 3.3 A key part of the work that the Princes Foundation did through their involvement in the Neighbourhood Plan was to prepare a proposal for how the Agora site could be redeveloped, with an economically viable, mixed-use scheme. This work has since been built upon by the Council's Urban Design team, and the details of these potential schemes are to be considered through public consultation.
- 3.4 Throughout the Neighbourhood Plan work done to date, significant efforts have been made to engage the current owners of the Agora, Leyland Holding Company, Their local agent did attend the Landowner Round-table meeting in January 2012, and the economic advisor from the Princes Foundation has also had a conversation with the owners of the building.
- 3.5 The owners have said that they feel the building continues to fulfil a useful purpose for small and start-up retail and commercial uses. They propose to make maintenance improvements to the building, but do not intend to redevelop the site themselves. However, they have indicated that they may be willing to work as a partner in a redevelopment scheme, and this will be explored as part of the process set out below.

4. Compulsory Purchase process

- 4.1 It is intended that Milton Keynes Council begin to prepare for the compulsory purchase of the Agora Shopping Centre, to secure the future redevelopment of the site in line with the emerging Neighbourhood Plan for Wolverton Town Centre. The project would be carried out through a partnership between Milton Keynes Council, Wolverton and Greenleys Town Council, Wolverton Steering Group and a Development Partner. The procurement of that Development Partner would be part of the process set out below. Compulsory purchase is only intended as a last resort, and attempts to acquire the site by agreement will continue in tandem with this process.
- 4.2 Table 2 below sets out the anticipated process that will be needed to get to the point of acquiring the site, and the potential timings of each stage. This process is only indicative at this time, and will be confirmed at the start of the project. If a Compulsory Purchase Order (CPO) is needed, if negotiations to

purchase the site by agreement are unsuccessful, there is a due process that must be carried out which isn't fully reflected in this table.

Table 2 – Indicative process and timings

1	Cabinet signals its willingness in principle to consider the compulsory acquisition of the Agora Shopping Centre (if redevelopment cannot be achieved on a voluntary basis) through a back-to-back arrangement with a Development Partner so the purchase would only proceed if the Council has simultaneously entered into a binding contract of sale for the site with the Development Partner.			July 2012
2	Project team set up to reflect the partner arrangement between MKC (including representatives from Planning, Property Services, Legal and Finance), Wolverton and Greenleys Town Council and Wolverton Steering Group			September 2012
3	Proposed uses for the redevelopment scheme are decided, and checked with external agents to ensure economic viability			November 2012
4	Development Brief for the site prepared. Preparation of the Neighbourhood Plan continues alongside this process, with Development Brief providing additional detail. Public consultation held on the proposals.			January 2013
5	Milton Keynes Council begins the legal process for Compulsory Purchase Order for the site, to be used in the event that negotiation is unsuccessful			January 2013
6	Tender information and brief prepared for procurement process, setting out what we want from the Development Partner.			April 2013
7	Procurement process to assess potential partners, including the development proposals. Development Partner chosen			July 2013
8	Development Partner prepares Planning Application for redevelopment proposals, in close consultation with Project Team guided by the agreed Development Brief. Application submitted and considered by Development Control Committee.			August – November 2013
9	Development Partner pursues acquisition of Agora Shopping Centre (if planning permission is granted) through negotiation with owner(s).			January 2014
10	If negotiations with owner(s) are <u>unsuccessful</u> , Milton Keynes Council proceeds with the next stage of the Compulsory Purchase procedure		12	If negotiations with owner(s) are <u>successful</u> , Development Partner acquires site and development commences.
11	Site is acquired by Milton Keynes Council through Compulsory Purchase, and immediately passed to the Development Partner under the back-to-back arrangement, and development commences	OR		

- 4.3 The ongoing preparation of the Neighbourhood Plan for Wolverton is important to the strength of a Compulsory Purchase Order, as there needs to be justification within planning policy and a compelling case that the redevelopment of the site is in the public interest, to support the order. Further, the Council would also need to demonstrate that all other options have been explored through negotiations with the existing owners, since compulsory purchase is only intended as a last resort.

5. Options

- 5.1 If Milton Keynes Council did not want to pursue the acquisition of the Agora Shopping Centre through a Compulsory Purchase Order (and negotiations between the Development Partner and current owners failed), it is unlikely that the redevelopment of the site would happen in the foreseeable future. The existing owners have indicated that they believe the building still fulfils a useful role and have no intention of redeveloping the site themselves. The implication of this would be that the emerging Neighbourhood Plan for Wolverton Town Centre would be undeliverable as redevelopment of the Agora Shopping Centre is a key element of this, and the regeneration of Wolverton as proposed by the Milton Keynes Local Plan would be jeopardised.

6. Implications

6.1 Policy

As discussed above, the redevelopment of the Agora would support Milton Keynes Local Plan Policy TC11 which seeks the regeneration of the Town Centre. Further, the redevelopment of the Agora site is anticipated to be a significant part of the emerging Wolverton Neighbourhood Plan, and the process to bring forward redevelopment on the site would be a key element in the delivery of that Plan.

6.2 Resources and Risk

Although the proposition is that the Development Partner will carry the financial risk, that depends on the viability of the redevelopment proposals.

Some minor costs will be incurred before a Development Partner is procured estimated at £20k for the viability study and development brief. This could be drawn from the existing Neighbourhood Plans budget.

There is also the risk, should the Council have to make a CPO that it is contested and the Secretary of State fails to confirm the CPO. In this case costs would be awarded against the Council and a figure of £50k should be budgeted for this risk.

There is a risk that the tenants could each serve Blight Notices, but before doing so must have made reasonable endeavours to sell and in consequence of the Blight have been unable to do so, or otherwise than at a low price resulting from the Blight. Individual circumstances will dictate what constitutes a reasonable endeavour to sell but we would anticipate a period of around

twelve months in the case of the Agora centre tenants. Beyond that period we would expect the development partner to be engaged and the risk transferred.

	Capital	+	Revenue		Accommodation
	IT		Medium Term Plan		Asset Management

6.3 Carbon and Energy Management

The redevelopment of the Agora site, which the outcome of this report would look to achieve, would need to meet our Local Plan Policy D4 carbon off-set requirements. However, there are no relevant implications directly from this report.

6.4 Legal

The report has already emphasised that for compulsory purchase to be successful there must be:

- i. An enabling power under which land can be acquired and a clear stated purpose for making the order;
- ii. A planning policy basis upon which an Order under the Town and Country Planning Act 1990 can proceed so as to implement the strategic aims of the policy;
- iii. A recognition that negotiations to acquire the land have been tried and have failed to acquire the appropriate land interests;
- iv. An appreciation that the interference with private rights and the expropriation of land must be lawful and that landowners Human Rights have been considered and a proportionate balance reached between the owners right to peaceful enjoyment of their possessions and the wider public interest and benefit achieved by the scheme;
- v. Compliance with the statutory procedures for publicity consultation and the consideration of objections made to the Order in a fair and transparent manner.

i. The Power to Compulsory Purchase

It is proposed that the Council will utilise its powers under Section 226(1)(a) of the Town and Country Planning Act 1990 (as amended) if it is unable to acquire the CPO Land (the Agora Shopping Centre, Wolverton, Milton Keynes) by agreement. Section 226(1)(a) of the Town and Country Planning Act enables the compulsory acquisition of land where the Council considers the acquisition will facilitate the carrying out of development, redevelopment or improvement on or in relation to the CPO Land where the Council thinks the development, redevelopment, or

improvement is likely to contribute to the achievement of the promotion or improvement of the economic, social or environmental well-being of its area. The purpose of the CPO will be consistent with the aim of regenerating Wolverton Town Centre and consistent with the provisions of the Milton Keynes Local Plan, Core Strategy and the emerging Neighbourhood Plan and development brief for the site.

ii. The Planning Framework

Office of the Deputy Prime Minister Circular 06/2004 provides guidance to acquiring authorities on the use of compulsory purchase powers. In making the Order, the Council aims to facilitate the improvement of the economic, social and environmental wellbeing of its area. The exercise of its powers of land acquisition must be set within a clear planning policy framework. This is how the authority will seek to justify the acquisition, and the planning policy documents will be stronger if they are up to date and have been subject to consultation, particularly involving those whose property will be affected by the Order. Detailed proposals included in the Neighbourhood Plan and reinforced in the Development Brief will assist this process. The wider the consultation undertaken on these documents the better. It is not always feasible to wait until all aspects of the regeneration proposals have been finalised however the authority must show that it will be possible to achieve the desired regeneration within a reasonable timescale and the strength of the supporting planning policy will enhance this.

iii. Acquisition by Agreement

Negotiations will be entered into with the current owners of the Agora site with the aim of acquiring the site by agreement rather than through CPO. If these negotiations are unsuccessful, the site will be subject to the compulsory purchase order if the proper acquiring procedure is followed.

iv. Human Rights

The guidance states that a CPO should only be made where there is a compelling case in the public interest and that regard should be had in particular to the provisions of the European Convention on Human Rights. A balanced view has to be taken between the intentions of the Council to acquire the land and the concerns of those whose interest in land it is proposed to expropriate. There must be clear evidence that the public benefit will outweigh the private loss.

Article 1 of the First Protocol states as follows:- "Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No-one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principals of international law".

In considering First Protocol Article 1 the Courts have held that whilst individuals are entitled to the peaceful enjoyment of their property and possessions, the State can deprive and control the use of them where its

actions are in accordance with law, necessary and legitimate, in the general interest and proportionate.

Therefore, in reaching its decision, the Cabinet needs to consider the extent to which the decision may impact upon the Human Rights of landowners of the CPO Land and to balance these against the overall benefits to the community, which the redevelopment of the Town Centre and in particular the Agora site will bring. Through the compulsory purchase process the landowners are given the opportunity to object and to be heard at a public inquiry (see below). The Cabinet will need to be satisfied that interference with the rights under Article 1 of the First Protocol to the European Convention on Human Rights is justified in all the circumstances and that a fair balance would be struck in the present case between the protection of the rights of individuals and the public interest.

v. Statutory Procedures

The Acquisition procedure is governed by the Acquisition of Land Act 1981. All those with an interest in the CPO land need to be served with a Notice of making of the CPO and invited to make any objections to the Order. This is accompanied by Newspaper notices and it is advisable to erect site notices as well. The objection period is a minimum of 28 days. If objections are made and not withdrawn an inquiry or hearing can ensue when the case for the making of the compulsory purchase order can be tested. If there are no objections the order may be confirmed.

Once confirmed the order is further publicised it can then be implemented either by acquiring individual parcels of land by serving a Notice to Treat on the individual land owners/interests or by making a General Vesting Declaration and acquiring all the land interests at one time, taking title to the whole CPO site.

The landowners have the right to be compensated for their interests and if this sum is not agreed the values can be determined by means of a reference to the Lands Tribunal and a procedure akin to arbitration involving expert evidence and legal submission.

The period prior to exercising powers of Compulsory Acquisition

Following the decision to authorise the compulsory purchase of the land and prior to the CPO procedure being implemented the land's future use and development is uncertain the owner may have difficulty selling or assigning his interest the uncertainty may lead the owners to consider whether to serve a Blight Notice. Cabinet's decision to acquire and the associated development proposals contained in the development brief may bring the site within the definition of Blighted Land in Schedule 13 of the Town and Country Planning Act 1990. This would enable the service of a Blight Notice on the Council forcing Council acquisition of the land. This is to counter the effect that proposed compulsory acquisition has on the owner's ability to deal with the land and its price.

The owner must show they have made reasonable attempts to sell his land but to no avail. The effect of a successful Blight notice will be to force the Council to purchase at an open market price that discounts the effect of the scheme on market value.

6.5 Other Implications

	Equalities/Diversity		Sustainability		Human Rights
	E-Government		Stakeholders		Crime and Disorder

Background Papers: